



NATURAL RESOURCES DEFENSE COUNCIL

November 5, 2015

Via Federal Express and Electronic Mail to:

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2822T)
Washington, D.C. 20460
hq.foia@epa.gov

Freedom of Information Officer
Environmental Protection Agency, Region 5
77 West Jackson Boulevard (MI-9J)
Chicago, IL 60604-3590
r5foia@epa.gov

**Re: FOIA Request for EPA's Records Concerning EPA's, Michigan's, and Flint's
Administration of the Safe Drinking Water Act's Lead and Copper Rule**

Dear FOIA Coordinator:

I write on behalf of the Natural Resources Defense Council (NRDC) to request disclosure of records pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and EPA's implementing regulations.

I. Description of Records Sought

Please produce records¹ in the Environmental Protection Agency² (EPA)'s possession, custody or control which reflect the following:

1. Records created or received by EPA from January 1, 2012, to the present concerning EPA's review of Michigan's state compliance with 40 C.F.R.

¹ "Records" means anything denoted by the use of that word or its singular form in the text of FOIA and includes correspondence, minutes of meetings, memoranda, notes, emails, notices, facsimiles, charts, tables, presentations, orders, filings, and other writings (handwritten, typed, electronic, or otherwise produced, reproduced, or stored).

² "Environmental Protection Agency" or "EPA" includes both EPA's Headquarters in Washington, D.C. and EPA Region 5 in Chicago, Illinois. We've distinguished those two EPA offices only when discussing correspondence between them.

- § 142.17 (review of state programs and procedures for withdrawal of approved primacy programs) including without limitation:
- a. Correspondence between EPA Headquarters and EPA Region 5;
 - b. Correspondence between EPA and Michigan's Department of Environmental Quality (MDEQ);
 - c. Correspondence between EPA and the City of Flint, Michigan (Flint);
 - d. Correspondence between EPA and the Detroit Water and Sewerage Department; and
 - e. Correspondence between EPA and the office of Michigan Governor Rick Snyder.
2. Records created or received by EPA concerning any program established or maintained by any state "to assist local educational agencies in testing for, and remediating, lead contamination in drinking water from coolers and from other sources of lead contamination at schools" pursuant to 42 U.S.C. § 300j-24.
 3. Records created or received by EPA from January 1, 2010, to the present concerning any grant made by the EPA Administrator to states pursuant to 42 U.S.C. § 300j-25 to establish and carry out state programs under 42 U.S.C. § 300j-24.
 4. Records created or received by EPA concerning MDEQ's designation of an optimized corrosion control treatment program for Flint's water system and/or the Detroit Water and Sewerage Department's drinking-water system, and/or MDEQ's approval of a corrosion control treatment option recommended by Flint or the Detroit Water and Sewerage Department for either Flint's water system or the Detroit Water and Sewerage Department's drinking-water system. 40 C.F.R. § 141.82(d)(1).
 5. Records created or received by EPA concerning MDEQ's review and/or approval of the addition of the Flint River as a primary water source for Flint's water system, or the Flint River's designation as an alternate water source in Flint's emergency response plan as an emergency or backup water source.
 6. Records created or received by EPA concerning any tap water monitoring of the Flint water system for lead conducted from the period of April 1, 2014, through the present, including:
 - a. Correspondence among EPA officials and between EPA officials and MDEQ and/or Flint officials;
 - b. All tap water samples submitted by Flint to the testing laboratory;
 - c. All tap water sample lab reports submitted by the laboratory to Flint;
 - d. All tap water sample lab reports submitted by Flint to MDEQ;
 - e. All tap water sample lab reports submitted by MDEQ to EPA; and
 - f. All consumer notices sent by Flint or MDEQ to participants of lead and copper monitoring and subsequently provided to EPA.

7. Records created or received by EPA concerning the control of lead and copper in Flint from January 1, 2012, to the present, maintained by MDEQ pursuant to 40 C.F.R. § 142.14(d)(8)(i)–(v), (ix)–(x), and (xvii).
8. Records created or received by EPA concerning any MDEQ or Flint program or efforts to test for and remedy lead contamination in drinking water at schools in Michigan.
9. Records created or received by EPA concerning public education materials and/or consumer notices distributed by MDEQ in Flint or by Flint pursuant to 40 C.F.R. § 141.85.

II. Request for a Fee Waiver

NRDC requests that EPA waive any fee it would otherwise charge for search and production of the records described above. FOIA dictates that requested records be provided without charge “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 40 C.F.R. § 2.107(l)(1). The requested disclosure would meet both of these requirements. In addition, NRDC qualifies as “a representative of the news media” entitled to a reduction of fees under FOIA. 5 U.S.C. § 552(a)(4)(A)(ii)(II); *see also* 40 C.F.R. § 2.107(c)(1)(iii).

A. NRDC Satisfies the First Fee Waiver Requirement

The disclosure requested here would be “likely to contribute significantly to public understanding of the operations or activities of the government.” 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(l)(1). Each of the four factors used by EPA to evaluate the first fee waiver requirement indicates that a fee waiver is appropriate for this request. *See* 40 C.F.R. § 2.107(l)(2).

1. *Subject of the request*

The records requested here concern EPA’s records regarding EPA’s, Michigan’s, and Flint’s administration of the Safe Drinking Water Act’s Lead and Copper Rule. The requested records thus directly concern “the operations or activities of the government.” 40 C.F.R. § 2.107(l)(2)(i).

2. *Informative value of the information to be disclosed*

The requested records are “likely to contribute to” the public’s understanding of government operations and activities, 40 C.F.R. § 2.107(l)(2)(ii). The public does not currently possess comprehensive information regarding the government’s role in addressing the levels of lead in Flint’s drinking water. There is more than a reasonable likelihood that these records have informative value to the public by helping them, and in particular the residents of Flint, evaluate more effectively and better understand the potential threats to themselves and their families. *See Citizens for Responsibility & Ethics in Washington v. U.S. Dep’t of Health & Human Servs.*, 481 F. Supp. 2d 99, 109 (D.D.C. 2006).

We believe that the records requested are not currently in the public domain. Their disclosure would thus meaningfully inform public understanding with respect to EPA's, Michigan's, and Flint's administration of the Safe Drinking Water Act's Lead and Copper Rule, as further discussed below. However, if EPA were to conclude that some of the requested records are publicly available, NRDC would like to discuss that conclusion and might agree to exclude such records from this request.

3. *Contribution to an understanding of the subject by the public is likely to result from disclosure.*

Because NRDC is a "representative of the news media," as explained in Part II.C below, EPA must presume that this disclosure is likely to contribute to public understanding of its subject. 40 C.F.R. § 2.107(l)(2)(iii).

However, even if NRDC were not a media requester, NRDC's expertise in protecting and ensuring clean drinking water, extensive communications capabilities, and proven history of dissemination of information of public interest—including information obtained from FOIA records requests—indicate that NRDC has the ability and will to use disclosed records to reach a broad audience of interested persons with any relevant and newsworthy information the records reveal. There is a strong likelihood that disclosure of the requested records will increase public understanding of the subject matter. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003) (finding that a requester that specified multiple channels of dissemination and estimated viewership numbers demonstrated a likelihood of contributing to public understanding of government operations and activities).

NRDC intends to disseminate any newsworthy information in the released records and its analysis of such records to its member base and to the broader public, through one or more of the many communications channels referenced below. NRDC has frequently disseminated newsworthy information to the public for free, and does not intend to resell the information requested here. NRDC's more than one million members and online activists are "a broad audience of persons interested in the subject" of EPA's, Michigan's, and Flint's administration of the Safe Drinking Water Act's Lead and Copper Rule, EPA, 40 C.F.R. § 2.107(l)(2)(iii), and when combined with NRDC's communications to the public at large, the likely audience of interested persons to be reached is certainly "reasonably broad." 40 C.F.R. § 2.107(l)(2)(iii). As NRDC's long history of incorporating information obtained through FOIA into reports, articles, and other communications illustrates, NRDC is well prepared to convey to the public any relevant information it obtains through this records request.

NRDC has the ability to disseminate information collected from this FOIA request through many channels. As of April 2015, these include, but are not limited to the following:

- NRDC's website, available at <http://www.nrdc.org> (homepage at Att. 1), is updated daily and draws approximately 1,500,000 page views and 712,000 unique visitors per month.
- *OnEarth* magazine (sample issue at Att. 2) is published as a bimonthly digital magazine, and is available free of charge at <http://www.onearth.org>. The site is updated regularly and also includes *Earthwire*, a daily newsfeed (Att. 3). It receives more than 99,000 unique visitors per month.
- *Nature's Voice* newsletter on current environmental issues (sample issue at Att. 4) is distributed four times a year to NRDC's more than one million members and online activists, and is available online at <http://www.nrdc.org/naturesvoice/default.asp> (Att. 5).
- *Activist Network* and *BioGems* email lists (sample email at Att. 6) include more than 1.7 million members who receive biweekly information on urgent environmental issues. This information is also made available through NRDC's online Action Center at <http://www.nrdc.org/action/default.asp> (Att. 7).
- *NRDC This Week* is a monthly electronic environmental newsletter distributed by email to more than 65,000 subscribers, at <http://www.nrdc.org/newsletter> (Att. 8).
- "Switchboard," available at <http://switchboard.nrdc.org> (Att. 9) is a staff blogging site that is updated daily and features more than 280 bloggers writing about current environmental issues. The blogs draw approximately 138,000 page views and 90,000 unique visitors per month; Switchboard's RSS feeds have approximately 4,750 subscribers; and Switchboard posts appear on websites of other major internet media outlets, such as "The Huffington Post," at <http://www.huffingtonpost.com> (sample post at Att. 10).
- NRDC's profiles on "Facebook," at <http://www.facebook.com/nrdc.org> (Att. 11), and "Twitter," at <http://www.twitter.com/nrdc> (Att. 12), are updated daily and have approximately 301,000 fans and 158,000 followers, respectively.

NRDC issues press releases, issue papers, and reports; directs and produces movies, such as *Stories from the Gulf*, narrated by Robert Redford and *Acid Test*, narrated by Sigourney Weaver; participates in press conferences and interviews with reporters and editorial writers; and has approximately forty staff members dedicated to communications work.

NRDC employees provide Congressional testimony; appear on television, radio, and web broadcasts and at conferences; and contribute to numerous national newspapers, magazines, academic journals, other periodicals, and books. A few examples are provided below:

- Research article, "The requirement to rebuild US fish stocks: Is it working?" *Marine Policy*, July 2014 (co-authored by NRDC Oceans Program Senior Scientist Lisa Suatoni and Senior Attorney Brad Sewell) (Att. 13);

- Issue brief, “The Untapped Potential of California’s Water Supply: Efficiency, Reuse, and Stormwater,” June 2014 (co-authored by NRDC Water Program Senior Attorney Kate Poole and Senior Policy Analyst Ed Osann) (Att. 14); *see also* “Saving Water in California,” *N.Y. Times*, July 9, 2014 (discussing the report’s estimates) (Att. 15);
- Article, “Waves of phony charges over new clean water safeguards,” *The Hill*, June 17, 2014 (by NRDC Executive Director Peter Lehner) (Att. 16);
- Article, “Don’t Buy the Smear of the EPA,” *L.A. Times*, June 3, 2014 (by NRDC President Frances Beinecke) (Att. 17);
- Transcript, “Conservationists Call For Quiet: The Ocean Is Too Loud!” Nat’l Pub. Radio, *All Things Considered*, July 28, 2013 (featuring NRDC Marine Mammal Protection Program Director Michael Jasny) (Att. 18);
- Testimony of David Doniger, NRDC Climate and Air Program Policy Director and Senior Attorney, before the United States House Subcommittee on Energy and Power, June 19, 2012 (Att. 19);
- Article, “Pollution Still a Hazard to U.S. Beaches,” CBS, *CBS NEWS*, July 29, 2009 (featuring former NRDC Water Program Co-Director Nancy Stoner) (Att. 20);
- Conference brochure, “World Business Summit on Climate Change,” May 24-26, 2009 (featuring former NRDC Director for Market Innovation Rick Duke at 9) (Att. 21);
- Article, “Is there a ‘proper level’ of compliance with environmental law?” *Trends: ABA Section of Environment, Energy, and Resources Newsletter*, Jan./Feb. 2008 (authored by NRDC Senior Attorney Michael Wall) (Att. 22);
- NRDC Document Bank, <http://docs.nrdc.org/> (Att. 23).

NRDC routinely uses FOIA to obtain information from federal agencies that NRDC legal and scientific experts analyze in order to inform the public about a variety of issues, including energy policy, climate change, wildlife protection, nuclear weapons, pesticides, drinking water safety, and air quality. Some specific examples are provided below:

- (1) In April 2014, NRDC relied on FOIA documents for a report on potentially unsafe chemicals added to food, without the safety oversight of the Food and Drug Administration or the notification of the public. The report, titled *Generally Recognized as Secret: Chemicals Added to Food in the United States*, reveals concerns within the agency about several chemicals used as ingredients in food that manufacturers claim are “generally recognized as safe” (Att. 24). *See also* Kimberly Kindy, “Are secret, dangerous ingredients in your food?” *Wash. Post*, Apr. 7, 2014 (discussing NRDC’s report) (Att. 25).
- (2) NRDC obtained, through FOIA, FDA review documents on the nontherapeutic use of antibiotic additives in livestock and poultry feed. In January 2014, NRDC published a report, titled *Playing Chicken with*

Antibiotics, which is based on the documents obtained, and reveals decades of hesitancy on FDA's part to ensure the safety of these drug additives (Att. 26). *See also* P.J. Huffstutter and Brian Grow, "Drug critic slams FDA over antibiotic oversight in meat production," *Reuters*, Jan. 27, 2014 (discussing NRDC's report) (Att. 27).

- (3) NRDC has used White House documents obtained through FOIA and from other sources to inform the public about EPA's decision not to protect wildlife and workers from the pesticide atrazine in the face of industry pressure to keep atrazine on the market. *See Still Poisoning the Well: Atrazine Continues to Contaminate Surface Water and Drinking Water in the United States*, <http://www.nrdc.org/health/atrazine/files/atrazine10.pdf> (Apr. 2010) (update to 2009 report) (Att. 28); *see also* William Souder, "It's Not Easy Being Green: Are Weed-Killers Turning Frogs Into Hermaphrodites?" *Harper's Bazaar*, Aug. 1, 2006 (referencing documents obtained and posted online by NRDC) (Att. 29).
- (4) NRDC incorporated information obtained through FOIA into a report, available at <http://www.nrdc.org/wildlife/marine/sound/contents.asp>, on the impacts of military sonar and other industrial noise pollution on marine life. *See Sounding the Depths II: The Rising Toll of Sonar, Shipping and Industrial Ocean Noise on Marine Life* (Nov. 2005) (update to 1999 report) (Att. 30). The report also relied upon and synthesized information from other sources. Since the report's publication, the sonar issue has continued to attract widespread public attention. *See, e.g.*, "Protest Raised over New Tests of Naval Sonar," Nat'l Pub. Radio, *All Things Considered*, July 24, 2007 (transcript at Att. 31).
- (5) NRDC scientists have used information obtained through FOIA to publish analyses of the United States' and other nations' nuclear weapons programs. In 2004, for example, NRDC scientists incorporated information obtained through FOIA into a feature article on the United States' plans to deploy a ballistic missile system and the implications for global security. *See* Hans M. Kristensen, Matthew G. McKinzie, and Robert S. Norris, "The Protection Paradox," *Bulletin of Atomic Scientists*, Mar./Apr. 2004 (Att. 32).
- (6) NRDC obtained through FOIA, and made public, records of the operations of the Bush administration's Energy Task Force, along with analysis of selected excerpts and links to the administration's index of withheld documents (Att. 33). NRDC's efforts cast light on an issue of considerable public interest. *See, e.g.*, Elizabeth Shogren, "Bush Gets One-Two Punch on Energy," *L.A. Times*, Mar. 28, 2002, at A22 (Att. 34).

- (7) Through FOIA, NRDC obtained a memorandum by ExxonMobil, advocating the replacement of the sitting head of the Intergovernmental Panel on Climate Change, and used the document to help inform the public about what may have been behind the Bush administration's decision to replace Dr. Robert Watson. See NRDC Press Release and attached Exxon memorandum, "Confidential Papers Show Exxon Hand in White House Move to Oust Top Scientist from International Global Warming Panel," Apr. 3, 2002 (Att. 35); Elizabeth Shogren, "Charges Fly Over Science Panel Pick," *L.A. Times*, Apr. 4, 2002, at A19 (Att. 36).
- (8) Through FOIA and other sources, NRDC obtained information on nationwide levels of arsenic in drinking water and used it in a report, *Arsenic and Old Laws* (2000), available in print and online at <http://www.nrdc.org/water/drinking/arsenic/aolinx.asp> (Att. 37). The report guided interested members of the public on how to learn more about arsenic in their own drinking water supplies. *Id.*; see also Steve LaRue, "EPA Aims to Cut Levels of Arsenic in Well Water," *San Diego Union-Tribune*, June 5, 2000, at B1 (referencing NRDC report) (Att. 38).³

As these examples demonstrate, NRDC has a proven ability to digest, synthesize, and quickly disseminate information gleaned from FOIA requests to a broad audience of interested persons. Therefore, the requested records disclosure is likely to contribute to the public's understanding of the subject.

4. Significance of the contribution to public understanding

The records requested shed light on a matter of considerable public interest and concern: EPA's, Michigan's, and Flint's ability to safeguard the quality of public drinking water supplies. There is broad public concern about the levels of lead in Flint's drinking water, including dangers that such elevated lead levels may pose to the health of Flint residents. Disclosure of these records will benefit the general public by allowing NRDC to provide information to and otherwise assist in addressing the ongoing concerns of the public in Flint. Disclosure of these records will help the public, in particular residents of Flint, evaluate more effectively the potential threats to themselves and their families.

³ There are numerous other examples of national news articles that were based in part on documents NRDC obtained through FOIA. See, e.g., Felicity Barringer, "Science Panel Issues Report on Exposure to Pollutant," *N.Y. Times*, Jan. 11, 2005 (Att. 39); Katharine Q. Seelye, "Draft of Air Rule is Said to Exempt Many Old Plants," *N.Y. Times*, Aug. 22, 2003 (Att. 40); Don Van Natta, Jr., "E-Mail Suggests Energy Official Encouraged Lobbyist on Policy," *N.Y. Times*, Apr. 27, 2002 (Att. 41).

B. NRDC Satisfies the Second Fee Waiver Requirement

Disclosure in this case would also satisfy the second prerequisite of a fee waiver request because NRDC does not have any commercial interest that would be furthered by the requested disclosure. 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(l)(1), (3). NRDC is a not-for-profit organization and does not act as a middleman to resell information obtained under FOIA. “Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’” *Rossotti*, 326 F.3d at 1312 (internal citation omitted); see *Natural Res. Def. Council v. United States Envtl. Prot. Agency*, 581 F. Supp. 2d 491, 498 (S.D.N.Y. 2008). NRDC wishes to serve the public by reviewing, analyzing, and disclosing newsworthy and presently non-public information about EPA’s, Michigan’s, and Flint’s administration of the Safe Drinking Water Act’s Lead and Copper Rule. As noted at Part II.A, any records in the possession, custody, or control of EPA on Michigan’s and Flint’s administration of the Lead and Copper Rule relates to a matter of considerable public interest and concern. Disclosure of the requested records will contribute significantly to public understanding of the dangers of lead in drinking water.

C. NRDC Is a Media Requester

Even if EPA denies a public interest waiver of all costs and fees, NRDC is a representative of the news media entitled to a reduction of fees under FOIA, 5 U.S.C. § 552(a)(4)(A)(ii), and EPA FOIA regulations, 40 C.F.R. § 2.107(c)(1)(iii); see also 40 C.F.R. § 2.107(b)(6) (defining “[r]epresentative of the news media”). A representative of the news media is “any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii); see also *Elec. Privacy Info. Ctr. v. Dep’t of Def.*, 241 F. Supp. 2d 5, 6, 11-15 (D.D.C. 2003) (a “non-profit public interest organization” qualifies as a representative of the news media under FOIA where it publishes books and newsletters on issues of current interest to the public); Letter from Alexander C. Morris, FOIA Officer, United States Dep’t of Energy, to Joshua Berman, NRDC (Feb. 10, 2011) (Att. 42) (granting NRDC media requester status).

NRDC is in part organized and operated to gather and publish or transmit news to the public. As described earlier in this request, NRDC publishes a bimonthly digital magazine, *OnEarth*, which has won numerous news media awards, including the Independent Press Award for Best Environmental Coverage and for General Excellence, a Gold Eddie Award for editorial excellence among magazines, and the Phillip D. Reed Memorial Award for Outstanding Writing on the Southern Environment. NRDC also publishes a regular newsletter for its more than one million members and online activists; issues other electronic newsletters, action alerts, public reports and analyses; and maintains free online libraries of these publications. See EPA, 40 C.F.R. § 2.107(b)(6) (“Examples of news media include . . . publishers of periodicals.”). NRDC maintains a significant additional communications presence on the internet through its staff blogging site, “Switchboard,” which is updated daily and features more than 280

bloggers writing about current environmental issues, and through daily news messaging on “Twitter” and “Facebook.” See OPEN Government Act of 2007, Pub. L. No. 110-175, § 3, 121 Stat. 2524 (2007) (codified at 5 U.S.C. § 552(a)(4)(A)(ii)) (clarifying that “as methods of news delivery evolve . . . such alternative media shall be considered to be news-media entities”). The aforementioned publications and media sources routinely include information about current events of interest to the readership and the public. To publish and transmit this news content, NRDC employs approximately forty staff members dedicated full-time to communications with the public, including accomplished journalists and editors. These staff members rely on information acquired under FOIA and through other means. Public interest organizations meeting the requirements “are regularly granted news representative status.” *Serv. Women’s Action Network v. Dep’t of Def.*, 888 F. Supp. 2d 282, 287-88 (D. Conn. 2012) (according media requester status to the American Civil Liberties Union).⁴

Information obtained as a result of this request will, if appropriately newsworthy, be synthesized with information from other sources and used by NRDC to create and disseminate unique articles, reports, analyses, blogs, tweets, emails, and/or other distinct informational works through one or more of NRDC’s publications or other suitable media channels. NRDC staff gather information from a variety of sources—including documents provided pursuant to FOIA requests—to write original articles and reports that are featured in its *OnEarth* magazine, newsletters, blogs, and other NRDC-operated media outlets. See *Cause of Action v. Fed. Trade Comm’n*, 961 F. Supp. 2d 142, 163 (D.D.C. 2013) (explaining that an organization can qualify for media-requester status if it “distributes work to an audience and is especially organized around doing so”). NRDC seeks the requested records to aid its own news-disseminating activities by obtaining, analyzing, and distributing information likely to contribute significantly to public understanding, not to resell the information to other media organizations.

III. Willingness to Pay Fees Under Protest

Please provide the records requested above regardless of your fee waiver decision. In order to expedite a response, NRDC will, if necessary and under protest, pay fees in accordance with EPA’s FOIA regulations at 40 C.F.R. § 2.107(c)(1)(iv) for all or a portion of the requested records. See 40 C.F.R. § 2.107(l)(4). Please contact me before doing anything that would cause the fee to exceed \$500. NRDC reserves its rights to seek administrative or judicial review of any fee waiver denial.

⁴ To be a representative of the news media, an organization need not *exclusively* perform news gathering functions. If that were required, major news and entertainment entities like the National Broadcasting Company (NBC) would not qualify as representatives of the news media. This country has a long history, dating back to its founding, of news organizations engaging in public advocacy.

IV. Conclusion

Please email or (if it is not possible to email) mail the requested records to me at the NRDC office address listed below. Please send them on a rolling basis; EPA's search for—or deliberations concerning—certain records should not delay the production of others that EPA has already retrieved and elected to produce. *See generally* 40 C.F.R. § 2.104 (describing response deadlines). If EPA concludes that any of the records requested here are publicly available, please let me know.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig E. Spencer". The signature is fluid and cursive, with the first name "Craig" and last name "Spencer" clearly legible.

Craig Spencer
Litigation Assistant
Natural Resources Defense Council
20 North Wacker Drive, Suite 1600
Chicago, IL 60606
(312) 651-7926
cspencer@nrdc.org

Enclosures (sent via Federal Express on DVD/CD):

Attachments 1 through 42 (single .pdf file)